IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 3292 of 2000

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

==========

IMTIYAZ UMAR DAL - Petitioner(s)
Versus
STATE OF GUJARAT & 3 - Respondent(s)

==========

Appearance :
MS KREENA CALLA, ASST. GOVERNMENT PLEADER for Respondents.
DELETED for Respondent(s) : 4,

==========

CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 03/09/2007

ORAL JUDGMENT

In the present petition, the petitioner, an Octroi Contractor, has challenged the order dated 13.04.00 by which the Deputy Secretary of the Government was pleased to cancel extension of 'ijara' for collection of octroi granted in favour of the petitioner. Having terminated the ijara, the Deputy Secretary directed the concerned Nagar Palika, i.e. Manavdar Nagarpalika, to collect octroi directly as per the rule for collection of revenue.

Initially, since the petitioner had made certain averments of malafides against the M.L.A. of the area in question, he was joined as party respondent No.4 as permitted by this Court by order dated 24.04.2000. Subsequently, learned advocate for the petitioner stated before the Court that he does not press the allegations of malafides against the MLA and accordingly, deleted respondent No.4. It may also be noted that learned Single Judge of this Court, on 08.10.01, observed that there is no case for granting of Interim Relief, and hence Interim Relief was refused.

In response to the notice issued by this Court, the Government has appeared and filed affidavit-in-reply. It is interalia stated therein that an amount of Rs.67,96,362/- was outstanding to be recovered from the petitioner by the Municipality and the Municipality was informed to initiate proceedings accordingly. Despite this, the Municipality initiated a proposal for giving extension of ijara in favour of the petitioner. This was turned down by the impugned order dated 13.04.2000.

It may be noted that the petitioner has not field

any rejoinder to the said reply filed on behalf of the State Government.

Today, this matter was called out on three occasions, but learned advocate for the petitioner was absent on all the occasions.

I have heard Ms. Krina Calla, learned Additional Public Prosecutor for the respondent-State.

Taking into consideration the facts emerging from the record, I do not find any illegality in the order passed by the State Government. The petitioner has not controverted the averments made in the affidavit filed by Ashvini Kumar, Collector, Junagadh in which it is interalia stated that an amount of Rs.67,96,362/- was due and recoverable from the petitioner and, therefore, extension of ijara was not desirable. It may also be noted that it is a matter of common knowledge that octroi has been abolished by the State Government since quite some time now. Therefore, and particularly when this Court had clearly recorded that there is no case for grant of interim relief, no useful purpose would be served in allowing the prayers made by the petitioner. The period of extension of ijara proposed by the Municipality is also over long back and this Court, having granted any interim relief, particularly in the facts of the case where the Government had categorically stated that a huge amount was due from the petitioner to the Nagar Palika, I see no reason to entertain this petition. The petition is, therefore, dismissed. Rule is discharged. No order as to costs.

[AKIL KURESHI, J.]

mathew